IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.1028 (MS) OF 2006

Jagdish Lal Sah Gangola,
S/o late Sri Harikshan Lal Sah Gangola,
S/o Gangola Mohalla, District-Almora. .....Petitioners

Versus

1. Commissioner, Kumaon Region, District- Nainital.
2. State of Uttaranchal, through Collector, District-Nainital.
3. Kumaon Jal Sansthan Haldwani, through its General Manager.
4. Tehsildar, District-Almora. .....Respondents

Dated: 02.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Sharad Sharma, Advocate for the petitioner, Standing Counsel for the respondents no. 1, 2 and 4 and Sri J.P. Joshi, Advocate for the respondent no.3.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the impugned order dated 02.06.2006 issued by the respondent no.4 and the order dated 07.07.2006 passed by the respondent no.1 in Revision NO.167/2005-06 (Annexure No.7 & 11 to the writ petition).

The grievance of the petitioner is that without issuing notice, the recovery proceedings have been initiated against the petitioner with regard to payment to of water tax and as such he has filed a revision before the Commissioner and the Commissioner has also not passed any order giving relief to the petitioner. The petitioner has not annexed the copy of the

demand notice/assessment order. The petitioner has an alternative remedy to challenge the assessment order/demand notice in proceeding under Section 54 of U.P. Water Supply & Sewerage Act, 1975. Section 54 of U.P. Water Supply & Sewerage Act, 1975 as under.

> *"54. Appeal against assessment.-(1) Any persons aggrieved by an order of assessment made by a Jal Sansthan or any other agency under sub-section (2) of Section 53 may, within thirty days from the date of such order, prefer an appeal to the prescribed authority.*
>
> *(2) Where an appeal is preferred from an order of the Jal Sansthan or agency inder sub- section(1), the prescribed authority may stay the enforcement of thuat order for such period and on such terms as it deems fit.*
>
> *(3) The prescribed authority may, after giving the parties an opportunity of being heard, confirm, set aside of modify the order under appeal.*
>
> *(4) A decision of the prescribed authority under sub-section (3) shall final and binding on the parties."*

Sri J.P. Joshi appearing on behalf of the respondents has undertaking that in case the petitioner prayers for the demand notice/assessment order, the same shall be supplied to him. The petitioner may either file the objection before the assessing authority or file the appeal before the appropriate authority under Section 54 of the U.P. Water Supply & Sewerage Act, 1975.

In case the petitioner prefers an application for demand of the assessment order/demand notice, the same shall be supplied to the petitioner within a period of ten days from the date of presentation of the certified copy of the order in order to avail him the remedy of filing the objections either before

the assessing authority or before the appropriate authority under Section 54 of the U.P. Water Supply & Sewerage Act, 1975.

Subject to the aforesaid observations, the writ petition is disposed of. However, for a period of one month, no coercive method shall be taken against the petitioner.

Copy of the order be given today.

(Rajesh Tandon, J.)

Dated:03.08.2006
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